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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/120,970	07/22/1998	ROY CURTISS III	53116-1763	2800

70953 7590 12/11/2007  
LEON R. YANKWICH, ESQ.  
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201 BROADWAY  
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EXAMINER
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PORTNER, VIRGINIA ALLEN

ART UNIT	PAPER NUMBER
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1645

MAIL DATE	DELIVERY MODE
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12/11/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
09120970	7/22/98	CURTISS ET AL.	53116-1763

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**EXAMINER**

Ginny Portner

ART UNIT	PAPER
1645	20071205

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents**

Please see attached narrative. Also please see attached copy of American Type Culture Collection Deposit Receipt made of record in the instant Application January 23, 2007.

***Reply Brief Noted***

1. The Supplemental corrected Appeal Brief submitted by Applicant on January 23, 2007 and the Reply Briefs submitted on August 1, 2007 and September 13, 2007 have been noted by the Examiner.
2. The American Type Culture Collection record (Best Copy Available) submitted with the corrected Appeal Brief dated January 23, 2007 is unclear. The plasmid designation is unreadable and appears to set forth a plasmid designated pMEG-10G and not pMEG-104. A copy of the ATCC document will be attached for Appellant's convenience to see the lack of clarity presented by the document. Obtaining a clean copy of the Deposit documentation could clarify the plasmid designation and could obviate the Deposit requirement on Appeal.
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ginny Portner whose telephone number is (571) 272-0862. The examiner can normally be reached on flextime, but usually M-F, alternate Fridays off.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shanon Foley can be reached on 571-272-0898. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number:  
09/120,970  
Art Unit: 1645

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Vgp  
December 5, 2007



MARK NAVARRO  
PRIMARY EXAMINER

JUN 05 '95 11:35 AM



# ATCC Treaty Deposit

TO DEPOSIT OR TO CONVERT A DEPOSIT TO MEET THE REQUIREMENTS OF  
BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE  
DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

1. Name of deposit (e.g., microorganism, cell line, seed, plasmid, etc.). If cell line, please provide Salmonella typhimurium
2. Strain designation (i.e., number, symbols, etc.). MGN-417 containing plasmid pMBC-122  
Δasd-17::c1857PRC2
3. Is this an original deposit under the Budapest Treaty? Yes
4. Is this a request for a conversion of a deposit already at the ATCC to meet the requirements of the Budapest Treaty? If so, please indicate ATCC designation. No
5. Is this deposit a mixture of microorganisms or cells? No
6. Provide details necessary to cultivate, test for viability and store deposit. If mixture, provide description of components and a method to check presence. Grow in Lennox broth @ 37°C; WILL NOT GROW AT 25°C. Store in 1% peptone+5% glycerol @ -70°C.
7. Provide an indication of the properties of the strain which are or may be dangerous to health or the environment. Derivative of S. typhimurium pathogenic for Mice
8. Provide sufficient description so that ATCC may confirm deposit properties (e.g., Gram negative rod). Gram negative rod, agglutinates O-antigen group B antisera
  - a. If deposit is a cell culture, is it being cultured in the presence of antibiotics? If so, please list the antibiotics. \_\_\_\_\_
  - b. If deposit is hybridoma, what is the isotype of antibody produced? \_\_\_\_\_
9. Is this strain zoonotic? \_\_\_\_\_ phytopathogenic? \_\_\_\_\_
10. (MUST BE COMPLETED) Packaging Class I, II, III, IV (in accordance with U.S. Public Health Services Regulation 42 C.F.R. § 72.3 (a)-(f)). Class II
11. Does this strain contain plasmids relevant to the patent process? Yes  
If so, what physical containment level is required (National Institutes of Health Guidelines Involving Recombinant DNA Molecules, i.e., P1, P2, P3 or P4 facility)? P2
12. Isolated from? Laboratory derived strain

\* The answers to these questions are recommended but not required.

## ATCC USE ONLY

ATCC DESIGNATION \_\_\_\_\_ RECEIVED \_\_\_\_\_ V.T. RESULT & DATE \_\_\_\_\_

**FEES:** 30 years' storage \$600. 30 years' notification \$360. Viability testing \$100 to \$400 or quoted price, dependent upon necessary material and/or equipment. Expedite ATCC number \$10. Return sample for approval (if not submitted frozen or freeze-dried) \$30. Prepare additional samples of cells or hybridomas \$500. Additional costs for return of samples outside U.S.A.  
**STORAGE:** Cultures are stored for 30 years from date of deposit and for five years after the last request for a sample, as required under the rules of patent offices in most countries.

Form B-1 (Page 1 of 2) 03/95

AVAILABLE COPY

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